

SERVICE DATE – DECEMBER 23, 2014

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. AB 290 (Sub-No. 350X)

NORFOLK SOUTHERN RAILWAY COMPANY—ABANDONMENT AND
DISCONTINUANCE OF SERVICE EXEMPTION—IN ESSEX COUNTY, N.J.

Decided: December 19, 2014

Norfolk Southern Railway Company (NSR) filed a verified notice of exemption under 49 C.F.R. pt. 1152 subpart F—Exempt Abandonments and Discontinuance of Service for NSR to abandon and discontinue service over approximately 2.0 miles of rail line as follows: NSR will abandon 0.71 miles of rail line between milepost 8.50 OJ and milepost 8.616 OJ and between milepost 9.905 OJ and milepost 10.50 OJ; and NSR will discontinue service over a 1.29-mile operating easement over a New Jersey Transit (NJT) line from milepost 8.616 OJ to milepost 9.905 OJ, all located in Essex County, N.J.¹ Notice of the exemption was served and published in the Federal Register on November 26, 2014 (79 Fed. Reg. 70,613). The exemption is scheduled to become effective on December 27, 2014.

In the EA served December 2, 2014, the Board's Office of Environmental Analysis (OEA) recommends that two environmental conditions be imposed on any decision granting abandonment authority. OEA states that the U.S. Fish and Wildlife Service, New Jersey Field Office (USFWS), submitted comments stating that three threatened, endangered, or candidate species may be located in the area of the proposed abandonment. USFWS recommended that NSR visit the New Jersey Field Office website as the next step in evaluating potential impacts. Accordingly, OEA recommends that, prior to commencement of any salvage activities, NSR be required to consult with USFWS to determine if any further review is necessary.

In the EA, OEA also states that NSR served an historic report on the New Jersey State Historic Preservation Officer (SHPO) pursuant to 49 C.F.R. § 1105.8(c). OEA notes that it has not heard from the SHPO and has been unable to consider the SHPO's opinion in making a final determination whether the proposed project would affect historic properties. Therefore, OEA recommends that NSR be required to retain its interest in and take no steps to alter the historic integrity of all historic properties including sites, buildings, structures, and objects within the project right-of-way (the Area of Potential Effect) that are eligible for listing or listed in the

¹ Because NSR will discontinue service over the 1.29-mile line of railroad and not abandon it, environmental and historic documentation is not required under 49 C.F.R. §§ 1105.6(c) and 1105.8(b), respectively. Therefore, the environmental assessment (EA) served on December 2, 2014, analyzes only the .71 miles of rail line that NSR proposes to abandon.

National Register of Historic Places (National Register) (generally, 50 years old or older) until the Section 106 process of the National Historic Preservation Act (NHPA), 16 U.S.C. § 470f, has been completed. OEA also recommends that NSR be required to report back to OEA regarding any consultations with the SHPO, any other Section 106 consulting parties, and the public, and that NSR be prohibited from filing its consummation notice or initiating any salvage activities related to abandonment (including removal of tracks and ties) until the Section 106 process has been completed and the Board has removed this condition.

No comments to the EA were received by the December 15, 2014 due date. OEA issued a final EA on December 17, 2014. Accordingly, the two conditions recommended by OEA in the EA and in the final EA will be imposed.

Based on OEA's recommendation, the proposed abandonment, if implemented as conditioned, will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. This proceeding is reopened.
2. Upon reconsideration, the notice served and published in the Federal Register on November 26, 2014, exempting the abandonment of the line described above is subject to the conditions that NSR shall: (1) prior to commencement of any salvage activities, consult with USFWS to determine if any further review is necessary, (2)(a) retain its interest in and take no steps to alter the historic integrity of all historic properties including sites, buildings, structures, and objects within the project right-of-way that are eligible for listing or listed in the National Register (generally, 50 years old or older) until the Section 106 process of the NHPA has been completed, (b) report back to OEA regarding any consultations with the SHPO, any other Section 106 consulting parties, and the public, and (c) be prohibited from filing its consummation notice or initiating any salvage activities related to abandonment (including removal of tracks and ties) until the Section 106 process has been completed and the Board has removed this condition.
3. This decision is effective on its service date.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.